

1 BILL LOCKYER, Attorney General
of the State of California
2 VLADIMIR SHALKEVICH, State Bar No. 173955
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2148
5 Facsimile: (213) 897-9395
6 Attorneys for Complainant

7
8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 1D 2003 63608

11 LISA MICHELLE KENNEDY
12 5008 Crown Avenue
La Canada, CA 91011

**FIRST AMENDED
ACCUSATION**

13 Physical Therapy License No. PT 16252

14 Respondent.
15

16 Complainant alleges:

17 PARTIES

18 1. Steven K. Hartzell (Complainant) brings this Accusation solely in
19 his official capacity as the Executive Officer of the Physical Therapy Board of California,
20 Department of Consumer Affairs.

21 2. On or about December 21, 1989, the Physical Therapy Board of
22 California issued Physical Therapy License Number PT 16252 to Lisa Michelle Kennedy
23 (Respondent). The Physical Therapy License was in full force and effect at all times
24 relevant to the charges brought herein and will expire on February 28, 2005, unless
25 renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Physical Therapy Board of
28 California (Board), Department of Consumer Affairs, under the authority of the following

1 laws. All section references are to the Business and Professions Code unless otherwise
2 indicated.

3 4. Section 2661.5 of the Code states:

4 (a) In any order issued in resolution of a disciplinary proceeding
5 before the board, the board may request the administrative law judge to
6 direct any licensee found guilty of unprofessional conduct to pay to the
7 board a sum not to exceed the actual and reasonable costs of the
8 investigation and prosecution of the case.

9 (b) The costs to be assessed shall be fixed by the administrative
10 law judge and shall not in any event be increased by the board. When the
11 board does not adopt a proposed decision and remands the case to an
12 administrative law judge, the administrative law judge shall not increase
13 the amount of the assessed costs specified in the proposed decision.

14 (c) When the payment directed in an order for payment of costs is
15 not made by the licensee, the board may enforce the order of payment by
16 bringing an action in any appropriate court. This right of enforcement shall
17 be in addition to any other rights the board may have as to any licensee
18 directed to pay costs.

19 (d) In any judicial action for the recovery of costs, proof of the
20 board's decision shall be conclusive proof of the validity of the order of
21 payment and the terms for payment.

22 (e) (1) Except as provided in paragraph (2), the board shall not
23 renew or reinstate the license or approval of any person who has
24 failed to pay all of the costs ordered under this section.

25 (2) Notwithstanding paragraph (1), the board may, in its
26 discretion, conditionally renew or reinstate for a maximum of one
27 year the license or approval of any person who demonstrates
28 financial hardship and who enters into a formal agreement with the

1 board to reimburse the board within that one year period for those
2 unpaid costs.

3 (f) All costs recovered under this section shall be deposited in the
4 Physical Therapy Fund as a reimbursement in either the fiscal year in
5 which the costs are actually recovered or the previous fiscal year, as the
6 board may direct.

7 5. Section 141 of the Code states:

8 “(a) For any licensee holding a license issued by a board under the
9 jurisdiction of the department, a disciplinary action taken by another state, by any
10 agency of the federal government, or by another country for any act substantially
11 related to the practice regulated by the California license, may be a ground for
12 disciplinary action by the respective state licensing board. A certified copy of the
13 record of the disciplinary action taken against the licensee by another state, an
14 agency of the federal government, or another country shall be conclusive evidence
15 of the events related therein.

16 “(b) Nothing in this section shall preclude a board from applying a
17 specific statutory provision in the licensing act administered by that board that
18 provides for discipline based upon a disciplinary action taken against the licensee
19 by another state, an agency of the federal government, or another country.”

20 6. Section 822 of the code provides:

21 If a licensing agency determines that its licentiate's ability to practice his or her
22 profession safely is impaired because the licentiate is mentally ill, or physically ill
23 affecting competency, the licensing agency may take action by any one of the
24 following methods:

25 (a) Revoking the licentiate's certificate or license.

26 (b) Suspending the licentiate's right to practice.

27 (c) Placing the licentiate on probation.

28 (d) Taking such other action in relation to the licentiate as the licensing agency in

1 its discretion deems proper.

2 The licensing agency shall not reinstate a revoked or suspended certificate or
3 license until it has received competent evidence of the absence or control of the
4 condition which caused its action and until it is satisfied that with due regard for
5 the public health and safety the person's right to practice his or her profession may
6 be safely reinstated.

7 FIRST CAUSE FOR DISCIPLINE

8 (Mental Illness)

9 7. Respondent is subject to disciplinary action under section 822 of
10 the Business and Professions Code in that her ability to practice her profession safely is
11 impaired because she is mentally ill. The circumstances are as follows:

12 A. In March and April of 2002, while employed on a part-time basis
13 by R&R Home Care, Inc. in the New Orleans area, respondent became ill and was
14 hospitalized for medical care due to a mental condition. After a week of hospitalization
15 and some degree of recovery, she had her case files and other records returned to her
16 employer who was informed of her hospitalization and of her inability to continue to
17 provide care to her assigned patients. Respondent's failure to timely communicate her
18 incapacity to practice physical therapy to her employer appears to have been the result of
19 the medical conditions for which she was hospitalized, which was a recurrence of long
20 standing physical and emotional problems. Respondent has, over an extended period of
21 time, had treatment for anxiety, depression, post-traumatic stress disorder and eating
22 disorders and continues in therapy and treatment for these problems currently. It is her
23 intention to pursue further treatment with the goal of eventually returning to practice in
24 California.

25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the
27 matters herein alleged, and that following the hearing, the Physical Therapy Board of
28 California issue a decision:

1. Revoking or suspending Physical Therapy License Number PT 16252, issued to Lisa Michelle Kennedy;

2. Ordering Lisa Michelle Kennedy to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;

3. Taking such other and further action as deemed necessary and proper.

DATED: 08/24/2004

Original Signed By: _____
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant